

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

JOHN LYNCH, et al.,

Plaintiffs,

v.

TESLA, INC.,

Defendant.

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1:22-cv-597-RP

**ORDER**

Before the Court is the report and recommendation from United States Magistrate Judge Susan Hightower concerning Defendant Tesla’s (“Defendant”) Motion to Compel Arbitration and Dismiss This Suit, (Dkt. 28). (R. & R., Dkt. 37). Pursuant to 28 U.S.C. § 636(b) and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Judge Hightower issued her report and recommendation on September 26, 2022. (*Id.*).

On the same date, Judge Hightower issued an order requiring Defendant to issue a notice to potential class members of this suit. (Order, Dkt. 38). Defendant objected to this order and filed an emergency motion to stay pending the Court’s review of its objections. (Obj., Dkt. 38, Mot. Stay, Dkt. 39). The Court ordered briefing on the stay. (Order, Dkts. 40, 42). Plaintiffs John Lynch, et al., (“Plaintiffs”) filed a motion for extension of time to respond to Defendant’s objections, which the Court granted. (Mot., Dkt. 43). Despite the briefing over this order, Plaintiffs never objected to the report and recommendation dismissing the case, which was due on October 10, 2022. Nor did Plaintiffs file a motion for extension of time to object to Judge Hightower’s report. Accordingly, no party filed timely objections to the report dismissing the case.

Pursuant to 28 U.S.C. § 636(b), a party may serve and file specific, written objections to a magistrate judge’s proposed findings and recommendations within fourteen days after being served

with a copy of the report and recommendation and, in doing so, secure de novo review by the district court. When no objections are timely filed, a district court can review the magistrate's report and recommendation for clear error. *See* Fed. R. Civ. P. 72 advisory committee's note ("When no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

Because no party has filed timely objections, the Court reviews the report and recommendation for clear error. As Judge Hightower found, there is clear and unmistakable evidence that the Plaintiffs agreed to delegate the threshold question of arbitrability to an arbitrator. Likewise, the Court finds no error in the holding that unconscionability challenges do not reach whether an agreement to arbitrate was formed. Finally, the recommendation to dismiss the case rests on several cases from the Fifth Circuit interpreting the Federal Arbitration Act. Having reviewed the report and recommendation, the Court finds no clear error and accepts and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the Report and Recommendation of the United States Magistrate Judge, (Dkt. 37), is **ADOPTED**. Defendant's motion to dismiss, (Dkt. 28), is **GRANTED**. Plaintiffs' claims are **DISMISSED WITHOUT PREJUDICE**.

**SIGNED** on October 13, 2022.

A handwritten signature in blue ink, appearing to read "Pitman", written over a horizontal line.

ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE